

A G. Contract No. KR98 2303TRN  
ADOT ECS File: JPA 98-178  
Project: HF010 01D  
Section: Fremont Road/Schultz Pass Road  
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF FLAGSTAFF

THIS AGREEMENT is entered into 3 MAY, 2001, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF acting by and through its MAYOR AND CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State has approved the exchange of \$117,303.00 in Highway User Revenue Funds (HURF) to the City for design services to provide the plans and specifications for construction of improvements to the Schultz Pass/Fremont Roads, and such funds will be repaid to the State by withholding from the Metropolitan Planning Organization (FMPO) federal funds and the obligation authority for federal funds in the amount of \$148,675.00.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO. 24610  
Filed with the Secretary of State  
Date Filed: 5/3/01  
[Signature]  
Secretary of State  
By: [Signature]

## II. SCOPE OF WORK

### 1. The City will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction, except for the signal at US-180 at Schultz Pass Road.

b. Invoice the State for thirty percent of the design project cost at the beginning of the design phase.

c. Invoice the State for thirty percent of the design project cost at the thirty percent and sixty percent project completion stages.

d. Upon completion, approve and accept the design as complete.

e. Invoice the State for ten percent of the design project cost at the one hundred percent project completion stage after final project plans and document review is completed by FMPO representatives.

### 2. The State will:

a. Within 30 days after receipt and approval of an invoice, advance the City HURF funds in accordance with paragraph II.1.b, c., and e. above.

b. Withhold from FMPO, federal funds and the obligation authority of federal funds in the amount of \$148,675.00.

## III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement may be canceled at any time by either party prior to the commencement of performance under this agreement, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.
4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.
5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.
6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.
7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007


City of Flagstaff  
City Engineer  
211 West Aspen  
Flagstaff, AZ 86001

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

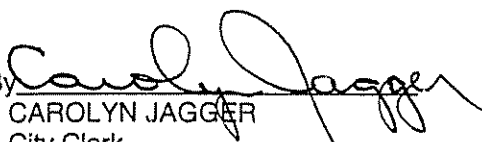
CITY OF FLAGSTAFF

STATE OF ARIZONA  
Department of Transportation

By   
JOE DONALDSON  
Mayor

By   
MARY LYNN TISCHER, Director  
Transportation Planning

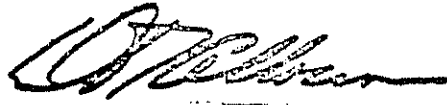
ATTEST

By   
CAROLYN JAGGER  
City Clerk

RESOLUTION

BE IT RESOLVED on this 2nd day of October 1998, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Flagstaff for the purpose of defining responsibilities for the exchange of HURF funds for improvements to Fremont Road and Schultz Pass Road.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Director of Transportation Planning for approval and execution.

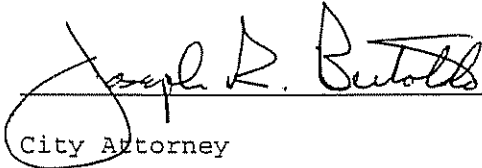
A handwritten signature in black ink, appearing to read 'D. Allocco', written over a horizontal line.

DAVID R. ALLOCCO, P.E.  
Assistant State Engineer  
Engineering Technical Group  
for Mary E. Peters, Director

APPROVAL OF THE FLAGSTAFF CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF FLAGSTAFF and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 9th day of April, 2001.

  
\_\_\_\_\_  
City Attorney

RESOLUTION NO. 2001-19

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA THROUGH THE DEPARTMENT OF TRANSPORTATION AND THE CITY OF FLAGSTAFF AUTHORIZING EXCHANGE OF HIGHWAY USER REVENUE FUNDS FOR THE SCHULTZ PASS ROAD REALIGNMENT PROJECT.

WHEREAS, the State of Arizona ("State") through the Arizona Department of Transportation ("ADOT"), Coconino County and the City of Flagstaff ("City") are undertaking a joint project, which, among other improvements, includes realignment of Schultz Pass Road ("Project"); and

WHEREAS, the City desires to provide design services, including construction plans and documents required for bidding and construction of the Project; and

WHEREAS, the State desires to provide Highway User Revenue Funds ("HURF Funds") in the amount of \$117,303.00 to the City in exchange for the City's design services and the ability of the State to withhold federal funds from the Flagstaff Metropolitan Planning Organization in the amount of \$148,675.00 for repayment to the State; and

WHEREAS, the City and the State desire to enter into an intergovernmental agreement ("IGA") in order to authorize the exchange of HURF Funds in the amount of \$117,303.00 from the State to the City and to authorize the City to provide said design services for the realignment of Schultz Pass Road; and

WHEREAS, the State and the City's Community Development Department desire to obtain City Council approval for the City's entry into the IGA; and

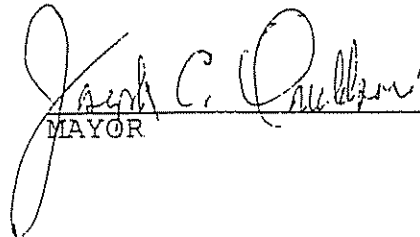
WHEREAS, the City Council has reviewed the proposed IGA and finds that it is in the best interests of the City to enter into the IGA with the State;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

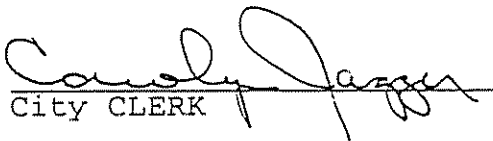
SECTION 1. That the Intergovernmental Agreement between the State and the City submitted as an attachment to the Staff Summary Report for the City Council meeting of April 3, 2001, be hereby approved and the Mayor be authorized and directed to execute the

Intergovernmental Agreement on behalf of the City of Flagstaff.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 3rd day of April, 2001.

  
MAYOR

ATTEST:

  
City CLERK

APPROVED AS TO FORM:

  
CITY ATTORNEY



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO  
ATTORNEY GENERAL

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**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR98-2303TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED April 25, 2001.

JANET NAPOLITANO

Attorney General

JAMES R. REDPATH

Assistant Attorney General

Transportation Section

JRR:et/680443

Enc.